

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

KRISTEN PIERSON,

Plaintiff,

v.

GOLOCALPROV, LLC, and THE FENTON  
GROUP, LLC,

Defendants.

Case No. 1:22-cv-00219-WES-PAS

**PLAINTIFF’S SCHEDULING  
CONFERENCE STATEMENT**

Pursuant to the Notice of Rule 16(b) Scheduling Conference (Doc. No. 16) and L.R. Cv. 16(b), Plaintiff, Kristen Pierson, submits her scheduling conference statement as follows:

**1. Facts of the Case**

As alleged in the Complaint (Doc. No. 1), Plaintiff is an award-winning photographer who specializes in event and live-music photography, as well as in portraiture. (Doc. No. 1 at ¶ 9). On September 23, 2014, she registered the copyright in a photograph of Robert Nardolillo, and she is the copyright owner. (*Id.* at ¶ 11).

Plaintiff alleges Defendants own and operate a website at the URL <[www.golocalprov.com](http://www.golocalprov.com)>. (*Id.* at ¶ 12).<sup>1</sup> Prior to November 1, 2018, a copy of the photograph appeared at no less than 11 URLs at the golocalprov.com website without Plaintiff’s permission. (*Id.* at ¶¶ 13-14). Plaintiff notified Defendants that such use was infringing. (*Id.* at ¶¶ 16 & 19). Instead of abiding Plaintiff’s request to cease infringing, Defendants falsely claimed they had a license. (*Id.* at ¶¶ 17 & 18). The picture was again published without Plaintiff’s permission on December 30, 2021. (*Id.* at ¶ 22).

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<sup>1</sup> Defendant The Fenton Group, LLC, denies owning or operating the website.

Additionally, at no time was Plaintiff's authorship of the photograph credited on the website. (*Id.* at ¶ 22). Instead, the website stated that "all the materials available on the Site are the property of GoLocalProv.com, LLC". (*Id.*).

## **2. Elements of the Claims with Description of Facts in Support Thereof**

Plaintiff brings two causes of action against Defendants: a) Copyright Infringement, and b) Violation of the Digital Millennium Copyright Act (17 U.S.C. § 1202). The elements and the supporting facts are as follows:

### **a) Copyright Infringement**

"A claim for copyright infringement requires a plaintiff to demonstrate that it has registered its copyright, that it owns a valid copyright, and that a defendant has copied original elements of the copyrighted work." *Alifax Holding SpA v. Alcor Sci. Inc.*, No. 14-440 S, 2017 U.S. Dist. LEXIS 39677, at \*7 (D.R.I. Mar. 20, 2017) (Smith, U.S.D.J.) citing *Airframe Sys., Inc. v. L-3 Commc'ns Corp.*, 658 F.3d 100, 105 (1st Cir. 2011).

As set forth in the Complaint, Plaintiff registered and owns the copyright in an image of Robert Nardolillo, Copyright Reg. No. VA0001926344 (Sept. 23, 2014). (Doc. No. 1 at ¶ 11, and Ex. 1 thereto). Defendants do not contest this in their Answer, leaving Plaintiff to her proof. (Doc. No. 12 at ¶ 11).

Plaintiff alleges Defendants copied the work at the URLs identified in the Complaint. (Doc. No. 1 at ¶¶ 14 & 22). Defendant GoLocalProv, LLC, admits the image was published at those URLs (and Defendant The Fenton Group, LLC, denies ownership or control over the website). (Doc. No. 12 at ¶¶ 14 & 22).

**b) Violation of the Digital Millennium Copyright Act (17 U.S.C. § 1202)**

“The [Digital Millennium Copyright Act] prohibits the use of false [Copyright Management Information], and provides that ‘No person shall knowingly and with the intent to induce, enable, facilitate, or conceal infringement provide copyright management information that is false, or distribute or import for distribution copyright management information that is false.’ 17 U.S.C. § 1202(a).” *Iconics, Inc. v. Massaro*, 192 F. Supp. 3d 254, 271 (D. Mass. 2016). “[Copyright Management Information] is limited to eight categories of information, including the title of a work, the author of a work, the copyright owner of a work, and the terms and conditions for using a work, among others.” *Id.* at 272 citing 17 U.S.C. § 1202(c).

As set forth in the Complaint, Plaintiff registered and owns the copyright in an image of Robert Nardolillo, Copyright Reg. No. VA0001926344 (Sept. 23, 2014). (Doc. No. 1 at ¶ 11, and Ex. 1 thereto). Defendants do not contest this in their Answer, leaving Plaintiff to her proof. (Doc. No. 12 at ¶ 11).

On the website, Defendants do not credit Plaintiff as the copyright owner, instead asserting that “all the materials available on the Site are the property of GoLocalProv.com, LLC”. (Doc. No. 1 at ¶ 23.) Plaintiff alleges this was done to conceal the underlying copyright infringement. (*Id.* at ¶ 63). Defendants deny these allegations. (Doc. No. 12 at ¶¶ 23 & 63).

**3. Identification of Legal Issues Which May Arise**

The parties anticipate that the following legal issues may arise in the case:

- a) Whether Defendant The Fenton Group, LLC, has ownership or control of the website;
- b) Whether Defendants had a license or other permission to use the photograph;
- c) Whether the use of the photograph constituted fair use; and

d) Whether infringement of the copyright was willful and/or intentional.

The foregoing identification of issues is without prejudice to raising other legal issues.

Dated: August 17, 2022.

Respectfully Submitted,

/s/ Sean M. McAteer

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*Kristen Pierson*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 17, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document being served via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Sean M. McAteer

Sean M. McAteer, 4118